the Bill. We are only opssiping the tendency to govern this country through ordinances, that is, Ordinance Raj. But looking to the fact that, by and large, I received wide support from all Members of the House condemning this attitude of every Government regarding the issuance of Ordinances, looking to the fact that the hon. Minister has expressed his inability to frame rules or guidelines or to make appointments or to constitute an Appellate Authority on account of certain inadequacies, looking to the fact that he is an old friend of mine, looking to the fact that he is piloting the Bill for the first time and looking to the fact that he is gracious enough to appeal to me, which is a good gesture, for the first time, to withdraw my Resolution, I think it will be appropriate to seek the approval of the House to withdraw my Resolution.

The Statutory Resolution was, by leave, withdrawn.

THE VICE-CHAIRMAN (SHRI MD. SALIM): I shall now put the motion moved by Prof. Saifuddin Soz to vote. The question is:

That the Bill to provide for the establishment of a National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safe-guards under the Environment (Protection) Act, 1986 and for matters connected therewith or incidental thereto, as passed by Lok Sabha, be taken into considereation.

The motion was adopted.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Now we shall take up clause-by-clause consideration of the Bill.

Clause 2 to 23 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

PROF. SAIFUDDIN SOZ: Sir, I beg to move.

That the Bill be passed.

The question was put and the motion was adopted.

STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE INCOME TAX (SECOND AMENDMENT) ORDINANCE 1996 (NO. 32 OF 1996) AND THE INCOME-TAX (AMENDMENT) BILL, 1997.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Now we shall take up the Statutory Resolution disapproving of the Income-Tax (Second Amendment) Ordinace, 1996 and the Income-Tax (Amendment) Bill, 1997, for consideration. Shri Satish Agarwal. Are you moving your Resolution?

The Minister was requesting you in the morning not to move the Resolution.

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): I request him even now.

SHRI S. S. AHLUWALIA (Bihar): Are you requesting him not to speak?

SHRI P. CHIDAMBARAM: No. He can speak on this Bill. It is a non-controversial Bill. I request him we can debate the Bill. Why is this Resolution?

SHRI SATISH AGARWAL (Rajasthan): He has made this request to me for the first time. But to put it on record, let me move my Resolution.

Sir, I beg to move:

That this House disapproves of the Income-Tax (Second Amendment) Ordinance, 1996 (No. 32 of 1996) promulgated by the President on the 31st December, 1996.

Sir, I have lot of material to speak on

the subject regarding search and seizure. You are making amendments and the Report that you have placed on the Table of the House today morning is containing a very explosive material regarding search and seizure. I was going to make use of it. But you have made an appeal to me for the first time to withdraw my Resolution. Therefore, though I move my Resolution, I take the leave of the House to withdraw my Resolution.

THE VICE-CHAIRMAN (SHRI MD. SALIM): But once you move your Resolution....

SHRI SATISH AGARWAL: On his appeal I am seeking the leave of the House to withdraw my Resolution.

THE VICE-CHAIRMAN (SHRI MD. SALIM): ...you have a privilege to speak on it. Are you not speaking?

SHRI SATISH AGARWAL: I have a privilege to speak on it. But looking at the appeal made by the hon. Finance Minister, my esteemed colleague and lawyer friend—he also belongs to my fraternity——I must respond positively. Therefore, I beg to leave of the House to withdraw my Resolution and, therefore, I am not making any speech.

SHRI P. CHIDAMBARAM: After moving his Resolution he need not speak on it.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Mr. Agarwal, are you not speaking on it?

SHRI SATISH AGARWAL: No, Sir.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Mr. Minister.

SHRI P. CHIDAMBARAM: Sir, I move:

> That the Bill further to amend the Income-tax Act, 1961, as passed by Lok Sabha, be taken into consideration.

The Finance Act, 1995 introduced a new Chapter XIV-B in the Income-tax Act, 1961 so as to provide a new scheme of assessment of undisclosed income determined in respect of searches initiated on or after the 1st day of July, 1995. Under this scheme the undisclosed income detected as a result of search initiated after 30th June, 1995 was assessed separately as the income of a block period which consists of a period of ten previous years prior to the previous year in which the search was conducted and also the period of current previous year up to the date of search. The undisclosed income was taxed at a flat rate of 60 per cent and no penalty and no interest was leviable. Our experience of working this provision for the last one-and-a-half years is that the evaders of tax have taken undue advantage of this provision. There are serious lacunae in the application and implementation of this provision. I will list them briefly. Since the provision did not provide for levy of any penalty or interest, the person from whom undetected income was seized, simply said, "You take 60 per cent and leave 40 per cent with me." In fact the undisclosed income became a more convenient way of retaining 40 per cent of the income that disclosed income which is assessable to income-tax. After retaining 40 per cent the assessment orders were challenged by way of an appeal. The time-limit for filing a return and for making an assessment is one year. Invariably returns are not filed. A return would be filed after 11 months, in the 12th month on the 28th day or on the 29th day and the officer would be asked to make his assessment in one or two days. We found that this provision, instead of achieving the objects with which it was brought —— I think the objects were very good and it was brought with good intentions —— had too many loopholes and the assessees were taking advantage of these loopholes. What I am doing is the following. Firstly, I say that there is no change if a person from whom undisclosed income was detected in a search admits to the amount, pays tax and does not file an appeal against the admitted portion of

the tax in which event there is no change. We will tax him at the fixed rate of 60 per cent. But if either he does not admit to the amount which is assessed or he does not pay the tax or he files an appeal then the usual provision will take over and he will be liable to pay both penalty and interest in addition to the tax. That is what I am doing to tighten up this provision.

I am also extending the period of time from one year to two years. As everybody knows two years is the normal rule. The normal rule for assessment of income-tax is two years. This provision made an exception and reduced it to one year. But we find in practice that in one year it is simply not possible. We have to make a block assessment for ten years. Therefore, we are reverting to the normal rule of two years so far as this provision is concerned. I think by amending Chapter XIV-B in this manner we are tightening up the provision. We are making a distinction between a person who admits the undisclosed income assessed in his hands and a person who does not admit it, a person who pays the tax on that basis and a person who does not pay the tax, a person who does not file an appeal and a person who files an appeal. I think the later category has to be treated strictly and harshly. Therefore, we think that upon assessment he has to suffer penalty and interest. I request the hon. Members to support the tightening up of this provision.

The question were proposed

SHRI SATISH AGARWAL: Sir, I have only one clarification to make and with your permission I seek this clarification. Mr. Minister, you have introduced this amnesty scheme this year. You have announced that it will be there till 31st December. I have come to know from some reliable source that many people have not filed advance tax up to 15th March which they were liable to do. Now they will avail of this facility. They were in the higher bracket of 40 per cent. Now they will disclose their income and pay only 30 per cent. So, what is the position with regard to this? I am for revenue. I am mentally conditioned for revenue.

SHRI P. CHIDAMBARAM: I am grateful to Mr. Agarwal. I think this is a popular misconception that people can shift their income from 1996-97 to 1997-98. Let me explain it. Firstly, with or without the amnesty scheme, the income-tax rate has been reduced to 30 per cent. So, ignore the amnesty scheme. If what you say is possible and I will argue now that it is not possible, if what you say is possible, even without the amnesty scheme a man must be tempted to shift his income from 1996-97 to 1997-98 because in 1996-97 he is assessed at 40 per cent and in 1997-98, the rate is 30 per cent. Every time you reduce the income-tax rate, there must be a shift of income from one year to another year. So, the amnesty scheme is not the critical factor. You can leave the amnesty scheme out. Let me meet the main argument. By reducing the income-tax rate from 40 to 30 per cent, can anyone shift his income? The answer is, 'no' and for the following reasons: Firstly, the amnesty scheme only allows you to disclose undisclosed income. You cannot disclose disclosed income under the amnesty scheme. So, the amnesty scheme is not coming to your aid at all. Now let us look at the reduction of tax rates. How do people pay taxes? People pay taxes in India under the advance tax provision. In advance tax, tax is estimated on the basis of your income which you have to do three times in a year. The last instalment is on March, 15th and what is the record? I am glad to inform you that the collection of personal income-tax in 1996-97 is likely to exceed the revised estimates which I placed before parliament. So, nobody has shifted his income from 1996-97 to 1997-98. It is not possible. Corporations cannot shift it because they have already made an assessment of their income for the year. Professionals cannot shift it because they have already made two assessments

before the third instalment was due. Who can shift it? A man who has got an irregular stream of income, an individual, a small partnership—it is quite possible-- can shift income from 1996-97 to 1997-98. But I think the total amount that will be involved is just a few handful of crores. There is no major shift. In fact, this morning, I reviewed it with the Chairman, CBDT and he told me to my great surprise and satisfaction that personal income-tax collection is likely to be higher than what I disclosed in the revised estimates. The revised estimates on personal income-tax are already slightly higher then the Budget estimates. There are two more provisions, very simply ones. We gave 100 per cent exemption to State Illness Assistance Fund. By oversight, we omitted the National Illness Assistance Fund. Please pardon me. It is a mistake in drafting. Therefore, I am amending it to include the National Illness Assistance Fund. The third one is regarding section 54 EA which provides for exemption from capital gains if the net consideration in invested in bonds, debentures or units of any mutual funds. They were exempted. Now this includes share because that is another form of security. A person should be allowed to invest in shares also. It is a choice given to him. He can invest either in shares or bonds or debentures or units of any mutual fund. All of them are being placed on a par. They are minor amendments. I request the hon. House to consider and pass the Bill.

श्री राघवजी (मध्य प्रदेश) : उपसभाध्यक्ष महोदय, मैं आपकी अनुमति से आयकर संशोधन विधेयक पर बोलने के लिए खड़ा हुआ हूं।

अभी माननीय मंत्री जी ने बताया कि इस अध्यादेश में सबसे महत्वपूर्ण बातें जो है वे सर्च और सीजर्स के बारे में हैं। लेकिन सर्च और सीजर्स के प्रावधानों के बारे में हमेशा शिकायत होता रहा है। जब कभी कोई आरोप लगता है तो इन्हीं प्रावधानों के साथ छेड़छाड़ की जाती है और अब तक ये अनेक बार बदल चुके हैं। जब प्रारंभ में आय कर विधान शुरू हुआ था तब ये प्रावधान थे कि जहां भी छापे पड़ते थे उसमें जो अघोषित आय पाई जाती थी जिन-जिन वर्षों की, उन-उन वर्षों के लिए उनका कर निर्धारण होता था। जितनी शास्तियां सामान्यतः बाकी सब कामों में लगती हैं उतनी सारी शास्तियां उसमें लगती थीं और उसमें कंसीलमेंट की भी शास्ति लगती थी, ब्याज भी लगता था। बाद में उसमें संशोधन किया गया। संशोधन यह किया गया कि अगर छापे के दौरान कोई व्यक्ति अपनी छिपाई हुई आय का कोई अंश घोषित कर देता है, सरंडर कर देता है तो उस पर 60 प्रतिशत कर लगता था बाकी कोई किसी प्रकार की शास्ति लगती नहीं थी और किसी प्रकार का ब्याज़ लगता नहीं था और उसमें तर्क यह दिया गया था कि ऐसा करने से लिटिगेशन बचेगा। स्वेच्छा से लोग अपनी छिपाई हुई आय बता देंगे और उसमें भी सरकार को जो 40 प्रतिशत अधिकतम कर की दर है उससे भी ज्यादा यानी 60 प्रतिशत कर मिल जाता था। इस प्रकार से थोड़ा सा कर निर्धारण आसान होता था। बाकी जो छिपाई हुई आय विभाग मानता था और करदाता नहीं मानता था तो उसके ऊपर कर निर्धारण होता था। अब फिर 1 जुलाई, 1995 को एक नया संशोधन लाया गया। उस नए संशोधन के तहत ब्लाक असेसमेंट का प्रावधान लगाया गया। अब यह ब्लाक असेसमेंट का प्रावधान लाने की क्या आवश्यकता थी? साथ-साथ यह भी प्रावधान किया गया कि शास्ति नहीं लगेगी अब यह चौथा नया तरीका शुरू किया गया है जिसके माध्यम से ब्लाक असेसमेंट भी चलेंगे और सभी प्रकार की शास्तियां लगेंगी, ब्याज़ लगेगा और इसके साथ-साथ सजा का भी प्रावधान है। लेकिन इसमें कितनी इनको सफलता मिलेगी मुझे इसमें संदेह है। प्रावधान बहुत जटिल किए गए है और बहुत कठिन भी है। कर की चोरी करता है तो उसके लिए कठोर दंड मिलना चाहिए लेकिन जितने भी छापे अभी तक हिन्दुस्तान में डाले गए हैं उसमें से अधिकांश आयकर अधिकारियों द्वारा छिपाई हुई आय मानी जाती है और वह डिस्प्टेड होती है और वह लिटिगेशन में मामला जाता है और लिटिगेशन के बाद जो नतीजे निकलते है उन से 25 प्रतिशत प्रकरणों में विभाग की जीत हो पाती है और 75 प्रतिशत प्रकरणों में विभाग की हार होती है और जितना स्वेच्छा से उसने स्वीकार कर लिया है उसका टैक्स उनको मिल जाता है, लेकिन विवादास्पद छिपाई हुई आय के बारे में हमेशा विभाग को हार खानी पड़ी है और इसमें अभी आपने प्रावधान कड़े किए हैं। उन कड़े प्रावधानों का यह नतीजा हो सकता है कि जिसको आयकर विभाग यह मान ले कि यह छिपाई हुई आय है लेकिन वास्तव में करदाता

इस बात को सिद्ध करने के लिए समर्थ है कि वह छिपाई हुई आय नहीं है इसके बावजूद भी चूंकि विभाग के अधिकारी जिसको नहीं मानते हैं क्योंकि सिद्ध करने का दायित्व करदाता के ऊपर रहता है और इसीलिए उसको उन सारी प्रक्रियाओं में से गुजरना पड़ेगा। सभी प्रकार के प्रकरणों में जब 60 प्रतिशत आय कर देता है तो उसमें भी 30 प्रतिशत शास्ति भी शामिल है क्योंकि अब तो आपने कर की अधिकतम दर 30 प्रतिशत कर दी अगर वह 60 प्रतिशत का भुगतान करता है तो 30 प्रतिशत की शास्ति तो शामिल है ही, फिर आपने यह भी कर दिया कि जितना छिपाई हुई आय पर टैक्स लगेगा उसका तीन गुना, तीन सौ परसेंट शास्ति लग सकती है। वह भी ठीक है। अब आपने इसमें यह भी प्रावधान किया है करदाता को नोटिस दिया जाएगा कि अपनी रिटर्न भरिए। रिटर्न के साथ जो इन्कम टैक्स बनता है वह भी पूरा जमा करे और वह भी समय-सीमा के अंदर जमा करना पड़ेगा। अब जब आयकर विभाग के अधिकारी छापे में सारा नकद ले गए, सारी संपत्ति ले गए, सारी जायदाद ले गए तो उसके पास आयकर भरने के लिए बचा क्या है और वह आय कर जमा कैसे करेगा और अगर रिटर्न भरता है वह आयकर जमा नहीं करता तो वह रिटर्न शून्य माना जाएगा और पूरी आय छिपाई हुई आय मानी जाएगी। दूसरी बात है, बहीखातों को जब्त करना। उपसभाध्यक्ष महोदय, सामान्यतः छापे के दौरान सभी प्रकरणों में बहीखाते, कागज और जितने भी अभिलेख होते है, सब जब्त किए जाते है और उन्हें जब्त करने के बाद अगर आप उस से कहते है कि अब आप आयकर विवरणी दाखिल करिए, तो वह कैसे दाखिल कर सकता है? जिन तथ्यों के आधार पर, जिन कागजों के आधार पर, जिन अभिलेखों के आधार पर आयकर विवरणी दाखिल की जा सकती है, वह सब तो डिपार्टमेंट ने जब्त कर लिए है। वह सब तो डिपार्टमेंट के पास पहुंच गए उस के बाद करदाता से कहा जाता है कि आप अपनी आयकर विवरणी भरो। तो वह कहां से भरेगा? या तो आप ने जितने डॉक्यूमेंट्स जब्त किए हैं, उस की एक फोटो-कॉपी आयकरदाता को दो। इसलिए यह बात मेरी समझ में नहीं आती कि क्योंकि फोटोकॉपी देने जैसी व्यवस्था नहीं है?

फिर आयकर विवरणी दाखिल न करने पर ब्याज का भी प्रावधान कर दिया है और यह ब्याज 2 प्रतिशत प्रतिमाह के हिसाब से चलता रहेगा जब तक कि आयकर विवरणी नहीं भरी जाएगी। उपसभाध्यक्ष महोदय, आयकर विवरणी न भरने पर आप ने प्रोसीक्यूशन का भी प्रावधान किया है जिस में कम-से-कम एक वर्ष की सजा होगी, अधिकतम 3 वर्ष की हो सकती है और जुर्माना भी लगेगा। अब इस सारे मामले में मुझे तो ऐसा लगता है कि आयकर विभाग "बीटिंग द बुश" कर रहा है। सांप निकल गया, लेकिन सांप की लकीर पर वह लाठी चला रहा है। हर्षद मेहता को जो करना था, वह कर के चले गए जिस कारण 7-8 हजार करोड़ रुपए का सेक्युरिटी स्कम हो गया। उस के बाद आयकर विभाग जागा। अब हर्षद मेहता के प्रकरण खोले जा रहे हैं और 5-7 हजार करोड़ रुपए का आयकर उस के ऊपर लगाया है। क्या विभाग को उस में से कोई आयकर मिलने वाला है? क्या मंत्री जी बता सकते है कि अभी तक उस से कितना आयकर मिला है। यह तो एक प्रकरण है, सेक्युरिटी स्कैम में तो ऐसे सैकड़ों लोग है सुखराम जी के यहां भी 5-7 करोड़ रुपए जब्त किए गए किन्तु वह भी आयकर विभाग की बहादुरी से नहीं मिले वह तो सी० बी० आई० वाले गए और छापा मारकर निकाल लाए। इसलिए मुझे तो नहीं लगता कि इन मामलों में आयकर विभाग बहुत सफल रहा है। इसी कारण चोर चोरी कर के निकल जाता है। फिर जिन लोगों को फंसाया जाता है, वह सभी चोर नहीं होते है, लेकिन आयकर विभाग में प्रावधान यह है कि आप सिद्ध करो कि मैं चोर नहीं हूं यह सिद्ध करने का दायित्व करदाता के ऊपर है और अगर वह इसे सिद्ध नहीं कर पाता है तो आप चाहे जो सजा लगा देते है। उपसभाध्यक्ष महोदय, पहले कभी यह प्रावधान हुआ करता था कि कंसीलमेंट की पेनाल्टी तभी लगेगी जब कि डिपार्टमेंट यह सिद्ध कर देगा कि वास्तव में करदाता ने कोई कंसीलमेंट किया है वरना पेनाल्टी नहीं लगती थी और ऐसे मामलों में डिपार्टमेंट हमेशा फेल होता था। अब करदाता को यह सिद्ध करना पड़ेगा कि मैं ईमानदार हूं, मैं बेईमान नहीं हूं और मैं ने कोई कर छिपाया नहीं है। महोदय, इस स्थिति का नाजायज फायदा आयकर विभाग के अधिकारी उठाते है। माननीय मंत्री जी को शायद पता नहीं होगा, लेकिन इसी में से आयकर विभाग में भ्रष्टाचार ने जन्म लिया है।

उपसभाध्यक्ष महोदय, आयकर विभाग के भ्रष्टाचार की कहानी अब आम व्यक्तियों से भी छिपी नहीं है और यह जो नए प्रावधान लाए गए हैं, उस से केवल भ्रष्टाचार बढ़ेगा। इस से आप को कुछ मिलेगा, इस में बहुत संदेह है। महोदय, स्थिति ऐसी रहेगी कि करने वाले कर गुजर गए, उस के बाद अब अन्य लोगों के पीछे लट्ठ लेकर पड़े हुए है और उन्हें सताते जा रहे हैं।

उपसभाध्यक्ष महोदय, अब एक और नई स्थिति बन गई है कि तीन प्रकार की व्यवस्थाएं कर-निर्धारण की बन गयी है एक वह अवस्था है जिस में कि छापे। जुलाई 1995 के पहले के हों और जो प्रकरण चल रहे हैं। दूसरी अवधि है। जुलाई, 95 से लेकर 30 दिसंबर, 96 तक। वह एक अलग अवधि है जिस के नियम अलग है, प्रक्रिया अलग कर दी है और तीसरा सेट यह हो गया है 1-1-97 से लेकर आगे के जो प्रकरण होंगे, उन सारे छापे के प्रकरणों में अलग प्रक्रिया और अलग व्यवस्था होगी। अब आप ने जुलाई में संशोधन किया और जुलाई में यह व्यवस्था कर दी कि एक वर्ष के अंदर कर-निर्धारण करना पड़ेगा। अब आप डेढ़ वर्ष में बुद्धिमान हो गए कि एक वर्ष से बढ़ाकर उसे दो वर्ष कर दिया? आप में डेढ़ वर्ष में नई बुद्धि पैदा हो गयी? तो यह व्यवस्था बार-बार बदलने की बात समझ में नहीं आती कि क्यों बार-बार इस तरह के प्रयोग किए जाते हैं? क्यों इसे बार-बार बदला जाता है? महोदय, वास्तव में यह प्रवृत्ति ही घातक है जिस से केवल परेशानियां बढ़ेगी, भ्रष्टाचार बढ़ेगा और इस से विभाग को कितना लाभ होगा, यह इस में कहना कठिन है। यह एक वर्ष की अवधि को दो वर्ष किया गया है। आपने अपने मेमोरंडम में कहीं भी यह नहीं बताया कि हम संशोधन करने जा रहे है। आपने केवल एक संशोधन बता दिया, लेकिन जो यह छोट-मोटे संशोधन किए है इसका कहीं भी जिक्र इसमें नहीं किया गया है।

महोदय, इसी प्रकार से धारा 54-ईए में जो संशोधन किया गया है, वह पूंजीगत लाभ के मामले में है, जिसमें कोई ज्यादा विवादास्पद बात नहीं हैं क्योंकि पहले भी बहुत से डिबेंचर्स पर छूट की हुई थी और उसमें अगर शेयर जोड़ दिए जाते हैं तो मैं समझता हूं कि ज्यादा आपत्तिजनक बात यह नहीं लगती है। मैं कहना चाहूंगा कि यह बात पहले भी की जा सकती थी। एक एक फुटकर, कोई भी बात ध्यान में आती है तो वह जोड़ दी जाती है। यह प्रवृत्ति भी ठीक नहीं है कि एक बात ध्यान में आ गई तो वह जोड़ दी गई, फिर बाद में दूसरी बात ध्यान में आ गई तो वह जोड़ दी गई। फिर, यह कैपिटल गैन्स के बारे में है, इसमें मुझे यह कहना है कि कैपिटल गैन्स के प्रावधानों को फिर से एक बार देखना चाहिए क्योंकि इसमें बहुत सुधार की गुंजाइश है। इसमें वास्तव में जो बुनियादी सुधार लाए जाने चाहिए, वह बुनियादी सुधार कैपिटल गैन्स के बारे में नहीं लाए गए हैं। इस ओर विभाग ने अभी तक कोई ध्यान नहीं दिया है।

उपसभाध्यक्ष (श्री मोहम्मद सलीम): अब आपको समाप्त करना चाहिए क्योंकि आपका समय हो चुका है।

श्री राघवजी : सर, एक दो मिनट में मैं समाप्त कर रहा हूं। यह साधारण सा संशोधन है, इसलिए मैं इसका विरोध नहीं करता हूं।

महोदय, धारा 80-जी० वाले मामले में माननीय मंत्री जी ने स्वयं स्वीकार किया है कि पिछली बार हम भूल गए थे, इसलिए यह संशोधन लाए है। वह तो ठीक है, लेकिन इस से आप इस प्रकार का प्रावधान बना सकते है, क्योंकि चैरिटेबल कार्यों में जो पैसा जाता है उसमें किसी को आपत्ति नहीं होगी, इसलिए परमानेण्ट ऐसा प्रावधान कर दीजिए कि सरकार नोटिफिकेशन के द्वारा सौ प्रतिशत छूट वाले प्रावधान में किसी भी संस्था का नाम डाल सकती है, जिसे वह उचित समझती है। आप जब इस प्रकार का प्रावधान कर देंगे तो आपको बार बार संशोधन लेकर यहां नहीं आना पड़ेगा।

महोदय, मैं एक और बात कहकर अपनी बात समाप्त करुंगा। अभी समाचार पत्र में यह छपा है कि मुम्बई में आयकर विभाग ने कई करोड़ की संपत्ति खरीदी है और वह इसलिए खरीदी है कि अगर कोई संपत्ति दो करोड़ की बिक रही है तो उसकी कीमत आयकर विभाग ने दस करोड़ बाजार मूल्य लगाई गई और चूंकि पन्द्रह प्रतिशत अधिक दाम पर खरीदने का प्रावधान है तो उसके आधार पर खरीद ली गई। अब स्थिति यह है कि जितनी संपत्ति खरीदी गई है वह बिक नहीं रही है। इससे आयकर विभाग को घाटा होने की संभावना है। बार बार उस संपत्ति की नीलामी की सूचना जारी होती है, मगर कोई खरीददार नहीं आ रहे हैं। उतनी कीमत आने में भी कठिनाई आ रही है, जितनी कीमत में विभाग ने उनको खरीदा है। यह तो आपके आयकर विभाग के अधिकारियों का कार्य करने का तरीका है कि किसी को भी परेशान करना है तो उसकी प्रोपर्टी का अधिग्रहण कर लिया, यह कहकर कि इसके दाम छिपाए गए हैं, इसकी दर्शाई गई कीमत गलत है। इस तरह से प्रोपर्टी को अधिग्रहण करके परेशान करने वाली बात है और अब स्थिति यह है कि आप उसको बेच नहीं पा रहे हैं। मुम्बई के बाजार में आयकर विभाग द्वारा ली गई प्रोपर्टी घूम रही है बिकने के लिए चारों तरफ और वहां खरीददार नहीं है। मेरा आग्रह है कि आप इस प्रकार की स्थिति अपने आयकर विभाग में पैदा मत करिए। इससे कोई नतीजा निकलने वाला नहीं है।

इसी प्रकार, महोदय, यो यह सर्च प्रोसीजर के बारे में

संशोधन लाए हैं, मैं बताना चाहूंगा कि सभी संशोधन इसी प्रकार के हैं और उससे कोई लाभ नहीं है। आप कोई एक बिल्कुल सिम्पल तरीका अपनाइए। सजा देनी है, दीजिए, लेकिन आप एक साधारण और सरल प्रावधान कर दीजिए कि जो अपनी छिपाई हुई आय को सिद्ध नहीं कर पाएगा उसको एक वर्ष की सजा या दो वर्ष की सजा, जो कुछ भी आपको रखना है, वह दी जाएगी। प्रावधान सरल होना चाहिए, ठीक प्रकार से समझने लायक होना चाहिए। इस प्रकार से तीन तीन प्रकार के सेटस करके सब करदाताओं को परेशान करने वाली जो व्यवस्था आप करते हैं, उससे केवल भ्रष्टाचार का ही जन्म होता है।

महोदय, इतना ही कहकर मैं अपनी बात समाप्त करता हूं। धन्यवाद।

SHRI SURINDER KUMAR SINGLA (Punjab): Thank you, Mr. Vice-Chairman.

Sir, when the hon. Finance Minister announced his tax proposals, the people were surprised. People received it with applause. But the taxpayers were equally astounded when he gave more powers to the tax administration.

I would like to remind the hon. Minister of the history of tax administration's powers; particularly, the power to carry out survey, search and seizure. Basically, these powers were given to the tax administration to unearth black money and to add to the revenue. The second objective was that these powers would prove to be a deterrent; it was thought that the power to carry out survey, search and seizure would become a deterrent so that people really do not amass and generate black money.

First of all, I would like to know from the hon. Minister whether these twin objectives behind giving this power to the tax administration have really helped. As everyone knows, the generation of black money has increased over the years. There are a number of estimates in this regard. There is a total parallel economy being run by the black-money-holders. You had a purpose; that the powers given to the tax administration would help in curbing the growth of black money. But it has not succeeded. What is the answer than?

On the other hand, by lowering the tax rates, you are assuming that the rate of compliance would increase. You assume that, automatically, people would pay taxes. One agrees. But the fact is, this power to carry out search and seizure has resulted in exactly the opposite. Why do I say this? As has been rightly pointed out by my colleague here, when you have such powers with the department, it should have added to the revenue of the department. On the contrary, it has generated corruption.

I would like to remind the hon. Minister that when the Standing Committee on Finance asked the department as to what was the number of searches and seizures conducted during the last two years, what was the tax administration's claimed figure in regard to unearthed black money, and what was the settlement. The department refused to supply the information. They said that they did not maintain these figures. This is not the answer given to the Parliament alone. The same thin happened when the CAG asked the department. When the CAG asked the department to furnish the information in regard to the claimed figure after the raids took place, and the figure after the actual settlement, the department refused to give the information to the CAG. The CAG has reported on that.

The point is this. If Parliament wants to review a policy, if Parliament wants to review whether a particular policy has succeeded or failed, what do we do? How do we really assess the performance of a policy when the department does not maintain the information, when the department does not want to supply the data? In a particular raid where they had claimed to have unearthed Rs.10 crores of black money, when one wanted to know as to what was the actual settlement, what

actually was added to the revenue of the department, the figure was not given.

Sir, this policy has existed for a number of decades. The basic question is whether this policy has succeeded in curbing the growth of black money or not. If it has not succeeded, if, on the other hand, it has led to generation of more black money, why should there be such a policy at all?

Secondly, you say that this particular power with the department serves as a deterrent. I would like to point out here. Take a micro case. You raid the house of one individual. You raid the house a second time. You raid the house a third time. Every time you find a hoard of black money in his house.

So, it has failed as a deterrent policy also. But why did you acquire more powers for the Departments or the administration to make more money out of this?

There are suggestions from the Standing Committee on Finance. Is it possible to have a tax-audit system like that in America? If a Department orders a raid on the basis of economic intelligence, after all, that a particular individual has unaccounted money or unaccounted property, what happens in America is that they simply ask the person whether that particular property was accounted for in his income-tax return or not. If it has not been accounted for, they just simply ask him to pay tax and also the penalty for it. What happens in that system is that revenue gets collected. There is no middleman. There is no fixer. So, hon. Finance Minister, Sir, I am asking this with a particular purpose. I am bringing this to your notice with a particular purpose. ...*(Interruptions)*

SHRI M. A. BABY (Kerala): Another Member is also bringing something to the notice of the Minister ...*(Interruptions)*

SHRI SURINDER KUMAR SINGLA: You have a very high hope that the tax will ultimately increase. I wish you well. I am a firm believer that by reducing the tax-rate, the saving will increase, the investment will increase, the growth of national income will increase and you will ultimately have a larger cake of revenue being collected. I congratulate you on that, on what you have done.

But my whole point is that you have brought the Voluntary Disclosure Scheme. Where do you want the collection of the Voluntary Disclosure Scheme, which the States are likely to share, 77.5 per cent or something like that? How do you hope to have a Voluntary Disclosure Scheme with the kind of powers that you have?

I will give you one example. You presented the Budget. You said that you are going to make the Voluntary Disclosure Scheme available up to the 31st of December. The next day a nursing home is raided in Delhi itself. Is it a moral act of the Government? Sir, I am asking you: is it a moral act? You have announced the Voluntary Disclosure Scheme in the Budget, and after that you conduct raids.

SHRI R. K. KUMAR (Tamil Nadu): Mr. Singla, do you want to give *chutti* to everybody?

SHRI SURINDER KUMAR SINGLA: No. My point is different. Is it a moral act of the Government? You offer amnesty and the Voluntary Disclosure Scheme facility, and suddenly you start raiding. The operation is immediate. Now, the point is whether it is a moral act or not.

Another point I want to mention is about the power. ...*(Interruptions)*

Mr. Biplab Das Gupta, you had a lot of attention of the hon. Minister.

DR. BIPLAB DAS GUPTA (West Bengal): I think the best thing is that there should be no raids, no seizures and nothing else!

SHRI SURINDER KUMAR SINGLA: Let me say that.

My point is that you have such wide powers. You are assuming that the compliance rate will be more. People like to pay taxes and want to be honest. It is on the basis of honesty it is done. Don't consider all Indians to be dishonest. That is your tragedy. You want policing of every Department. You want policing of financing institutions. You want policing of everything. This is your tragedy. Trust Indians. If you are in the right direction, they will pay.

The powers that the tax administration has under the survey, search and seizure — I am repeating and reminding the Finance Minister — will not help him to collect money under the V.D.S. It would be impossible for him for a variety of reasons. When you disclose your income under the Voluntary Disclosure Scheme, there are officers in the Department, who would like to know the source of the income. The next year you would like to calculate on the basis of their declared sources of income. That way you will put fear in their mind. So, a lot of people, who have black money, would not come forward to avail of this facility. If you want this scheme to be successful, if you want a larger revenue from tax collections, you will have to liberalise your tax regime and the kind of control and power, which is punitive, oppressive and, in fact, is also barbaric. So, this power has to be made civilised. In a civilised society these kinds of raids are not conducted. These never happen anywhere in a civilised society. So, I would like to say when the hon. Minister is so liberal in terms of progressively decreasing the tax rates, he should see that the powers of survey, search and seizures should be reduced to the minimum so that the tax-payers come forward freely and make use of the scheme. Thank you very much.

SHRI ASHOK MITRA (West Bengal): Sir, let me start by making one little comment on Mr. Singla's extracurricular comment on the Budget. He said the lower is the tax rate, the more will the tax yield. You can stretch this point to the *reduction ad absurdum.* If you have zero rate of taxation, you will have an infinite amount of tax revenue! But, this is what the Finance Minister is perhaps trying to tell the countrymen.

SHRI P. CHIDAMBARAM: No.

SHRI ASHOK MITRA: Anyway, let us come to the substance of the issue. Unfortunately, I am not a lawyer like Mr. Agarwal. So, I am not that much lucky to offer the courtesy that he has offered to the Finance Minister. So, I will offer some comments on the Bill that he has moved.

The Bill is intended to validate the ordinance that was issued on 31st of December by the President at the behest of the Ministry of Finance. The Finance Minister has very lucidly explained that there are three different reasons why he had to take recourse to this legislation. I do not say why he had to take recourse to the issue of the ordinance. I make a distinction between having recourse to pushing the President to issue an ordinance and the compulsion to have a legislation. I will continue to make that distinction Certainly, in the 1995 Finance Act, the Finance Minister had introduced certain amendment in the Income-tax Act in order to improve the assessment and collection from undisclosed income etc. It was a very good intention. They went through a certain gamut of experience of one year from July 1985 to 30th June, 1986. ...*(Interruptions)*

In the course of a full 12 months, the Finance Ministry must have known what exactly was happening, what the deficiencies were, what the flaws were and in what manner we can improve the possibility of additional collection.

Once upon a time, I worked in the Ministry of Finance and I know how things happen there. Files have been moved from the Income Tax Department to the Ministry proper, back and forth, back and forth. Is it that all brilliant ideas

strike the Ministry of Finance only after Parliament adjourns? The Parliament adjourned on the 21st December. Couldn't the Ministry of Finance move the necessary legislation in the winter session? It didn't. It could have said, "Sorry, we did not know when the Parliament was adjourning on the 21 December." I would say that they knew only too well that Parliament was adjourning on the 21st December and.

SHRI P. CHIDAMBARAM: Mr Vice-Chairman, if the hon. Member looks at the record he would know that in the winter session I think while answering a question in Parliament or in another debate I said that the Bill was ready, but I was not getting legislative time in the session. "If I get legislative time, I would move it in the winter session; otherwise I would being it as an Ordinance." I said that in this House.

SHRI ASHOK MITRA: If you couldn't get the legislative time, it was for the Government to decide it. If you couldn't get yourself accommodated, it was for the Government to decide. The Government is a collective entity. It is for the Government to allot you the time so that you could have legislated on an important business. If the Government fails, the Government will have to suffer the consequence of waiting for another 2 ½ months. I think it is a very serious point. I will continue to make the point. Only between 21st December and 31st December, the Finance Minister could take it up.

Then, I come to the second issue about the National Illness Assistance Fund. When did Parliament convene? The Parliament convened on the 20th February. I would say that the State Governments waited for 20 long years before they could get the approval of the Union Government to make the contribution to the Chief Minister's Relief Fund for a tax-free. Following the 1978 floods in West Bengal, I moved the Ministry of Finance, I lobbied, lobbied, lobbied that contributions towards the Chief Minister's Relief Fund should be made tax-free. It did not happen. If we could wait for 20 years, couldn't Mr. Chidambaram wait for just 2 ½ months? Why did he think of bringing this Bill through an Ordinance? ...*(Interruptions)*...

Thirdly, I come to the issue of shares and dividends. The Finance Minister in his Budget speech has already made dividends in the hands of shareholders tax-free. Now, he is also making the appreciation of shares, capital gains to be tax-free. This only shows the desperate state of his mind. He is anxious. He said some months ago that he doesn't understand investors and he doesn't know how to revive the share market. But I must congratulate him that he is trying to revive the share market. Nobody can accuse him of not trying. He is trying, trying, trying. All right, he is trying. This is one example. He is worried. He wants to experiment. But he has also promised this House that he would set up an expert group. *(Time-bell rings)* I would take two or three minutes more. He said that this group would look into the nuances of the Income Tax Act and on the basis of their recommendations he is going to move another statute. I do not know whether he would bring in a statute or an Ordinance. But he had this in mind. If it is so, then, I would say that these are bits and pieces. I would call you the bits and pieces Finance Minister. Instead of moving an amendment here and there, you should bring forth a comprehensive Bill.

At one go, have all your amendments. Otherwise, there will be this kind of Ordinances upon Ordinances. I would say something and not just as a Member of Parliament. I am saying this on behalf of my party. During those six or seven weeks when we were not in station, this Government brought as many as 13 Ordinances. If my friends across ...*(Interruptions)*

AN HON. MEMBER: Nineteen Ordinances.

SHRI ASHOK MITRA: Were they 19? It is much worse.

With my friends in the different benches, we were opposed to the previous regime. We had a hundred different reasons for opposing them. One of the reasons was their penchant for issuing Ordinances.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Please conclude now.

SHRI ASHOK MITRA: The previous regime believed in reforms. The new Government also believes in reforms. It is a continuation of reforms and a continuation of the faith in Ordinances. But we are offering a mild warning—I would use the expression 'warning'—to the Government. You can get away this time. But do not try it again. I am making this comment because I did not like the cavalier manner in which the Finance Minister responded to me on the last occasion when I made this point. He said, "If the occasion arises, we will continue to issue Ordinances." No, Sir. In a democracy, the proper answer on your part ought to have been, "We will try to avoid making Ordinances." That is one difference between a democratic attitude and an authoritarian attitude. I say all this in a very friendly spirit and I wish you had also accepted it in a friendly spirit. Thank you.

SHRI R.K. KUMAR: Thank you, Mr. Vice-Chairman. Normally what happens is, I have to wait for my turn and I keep on looking at the clock as to when it will come.

We have had the privilege of hearing the hon. Finance Minister on the Budget in this House first. I am sure, I know very well, he is also worried about his reply with other House. I have only to welcome this Bill and I will not take much time of the House.

What was left out in the 60-40 scheme, a major point in this Bill, is the penalty for a person who still conceals something even after search and seizure, when he is not admitting in the block assessment, whatever he should admit. This is what was left out, probably, inadvertently in the earlier scheme. This has been brought in now. About the Ordinance, etc., senior Members have spoken. I do not want to be repetitive. I personally feel, if a man has not come clean after getting an opportunity, he should be penalised. We should dangle the carrot and show the stick also. Only then the tax administration will work.

With these words, I welcome the Bill. Thank you.

श्री ईश दत्त यादव (उत्तर प्रदेश): माननीय उपसभाध्यक्ष जी, आय कर के नियमों में संशोधन का जो विधेयक वित्त मंत्री जी ने प्रस्तुत किया है, मैं इसका स्वागत करता हूं और समर्थन करता हूं। मान्यवर, समय की कमी है, इसलिए मैं कुछ ज्यादा नहीं कहना चाहता। लेकिन मैं वित्त मंत्री जी की जरूर प्रशंसा करना चाहूंगा। उनका यह जो कदम है यह सात्विक और क्रांतिकारी कदम है।...**(व्यवधान)**...

श्री एस॰ एस॰ अहलुवालिया: समाजवाद को भूल गए।

श्री ईश दत्त यादव: महोदय, यह वित्त मंत्री का सात्विक और क्रांतिकारी कदम है जिससे देश में जो छुपा हुआ धन है, गुप्त धन है, उस धन को निकालने में, इस कानून के बन जाने के बाद आसानी होगी ...**(व्यवधान)**... तथा इससे सरकार की राजस्व प्राप्तियां भी बढ़ेंगी।

इन शब्दों के साथ मैं इस विधेयक का तहेदिल से समर्थन करता हूं।

THE VICE-CHAIRMAN (SHRI MD. SALIM): Shri Gurudas Das Gupta. Have you ever been able to restrict your speech to one minute? Here is a chance. Please restrict it to one minute.

SHRI GURUDAS DAS GUPTA (West Bengal): Sir, I am not in a position to compliment the hon. Finance Minister on the move that he is bent upon making. *(Interruptions)*.

SHRI S.S. AHLUWALIA: You are supporting him.

SHRI GURUDAS DAS GUPTA: I

am not being able to compliment him. I have never said either I support him or oppose him. I know my English. *(Interruptions)*. If I was free, I would not have supported it.

SHRI S.S. AHLUWALIA: There is no fourth button.

SHRI GURUDAS DAS GUPTA: I know my language. I repeat what I said earlier. I don't compliment the hon. Finance Minister for the move that he is bent upon making ever since he introduced the Budget this year in Lok Sabha because he is guided by a typical theory—the less the penalty, the less will be the violation. We have seen in free India the regime of a number of Prime Ministers. We have seen how many attempts had been made to recover the ill-gotten wealth by declaring one after another the Amnesty Plans. It has not led to the desired result. Therefore, the way in which he has announced the Amnesty Plan, I don't believe he is going to have the desired result. Secondly, he has made investment in shares tax-free. The investment in secondary market does not lead to productive investment. This is another reckless way of trying to rejuvenate the stock market. I am afraid, his attempt may not succeed.

Thirdly, he has spoken of tax concession to the people investing money on shares. *(Interruptions)* Money is invested on shares. I am speaking on that. I believe, his philosophy is different from mine, and from many of us. I believe, the hon. Finance Minister should look at the history of criminality, particularly involving the financial sector. Let him draw a proper conclusion.

SHRI V.P. DURAISAMY (Tamil Nadu): Sir, I rise to support the Income-tax (Amendment) Bill, 1997 on behalf of my party. I agree that an ordinance should be promulgated only in extreme emergency time, that too, keeping in view the extreme emergency, and that too, after keeping in mind the national interest. In the present case also, I am confident that there were valid reasons to promulgate the ordinance because some political heavy weights, who had misused their public office, had to be dealth with severely. Sir, I can understand that the hon. Finance Minister could not have waited for nearly two months for the Session to begin and the Bill to be passed. The Bill will definitely supplement the determined efforts of search and seizure to unearth undisclosed income. I compliment the Finance Minister for taking effective steps to bring out the undisclosed income of the political persons without bothering about their social status. The hon. Minister knows very well that black money is like cancer that affects the entire economy of India. Even earlier, attempts were made by the Government to unearth black money but they did not result in achieving the desired result. They did the whole thing in a half-hearted manner. The Finance Minister has vividly said in the Budget about the scheme to declare the black money. This Bill will help the Government in bringing the black money to light and will also prevent the frauds. The entire nation will remember the hon. Minister for the bold steps taken by him. I support this Bill. Thank you. Apart from that, the income-tax officers in Tamil Nadu are being threatened every day. Some of the officers have also been killed. May I request the hon. Finance Minister to take care of their lives and interests?

THE VICE-CHAIRMAN (SHRI MD. SALIM): Mr. Agarwal, as mover of the Statutory Resolution, do you want to say anything?

SHRI SATISH AGARWAL: Mr. Vice-Chairman, Sir, I am really grateful to all those Members who have supported the Statutory Resolution and condemned the attitude of the Government in issuing Ordiances. However, as explained by the Finance Minister, as promised earlier by me, Mr. Ashok Mitra said that I am a lawyer, he is a lawyer, but he is not a liar. Mr. Ashok Mitra, he is a very good

advocate for the cause for which he stands. Anyway, as promised earlier, I seek leave of the House to withdraw my Statutory Resolution.

6.00 P.M.

SHRI P. CHIDAMBARAM: Mr. Vice- Chairman, Sir, I am grateful to the hon. Members for the broad support that they have extended to this Bill. I think, I will first make peace with Dr. Ashok Mitra, but he is not here, but I still would like to say, it was not my intention to say that I would willynilly bring ordinances. What i said was that where the power is being conferred upon the President and where the President is satisfied, on the advice of the Government, that an ordinance is necessary, it would not be right to say that under no circumstances should an ordinance be promulgated. Now, take this Ordinance. This Ordinance was not intended for National Illness Assistance Fund or for amending Section 54E(h) and surely they could have waited for the Finance Bill, 1997. But the earlier Chapter 14B was in operation and in 1996, after this Government came into office—I am not taking names—we found that whereas in some very startling cases where large amounts of money were recovered and the defence being put forward in such cases is, very well, take 60 per cent and leave 40 per cent for me, now what do I do in such a situation? Do I allow that Chapter 14B to continue until the next Session of Parliament? I had this Bill ready. I tried my best to bring it in the winter Session. I did not get legislative time—I am not blaming anybody, I blame ourselves collectively that we could not find legislative time—so, we brought this law on the 31st of December that all searches and seizures made after first of January would be governed by the new law. I think if there is any situation which warranted an ordinance, this is a situation which warranted an ordinance because huge sums of money were being recovered in some very significant cases, and I do not wish to take names about those cases. If there was any situation which warranted an ordinance, I believe, this situation warranted an ordinance, but I am willing to concede Dr. Ashok Mitra's point that an ordinance must be very sparingly resorted to and it should not become a normal course of legislation, and I certainly do not propose to bring ordinances in a routing fashion, and I will assure him that the new income tax law will not come as an ordinance, the new company law will not come as an ordinance; they will come a substantive bills before this House.

SHRI GURUDAS DAS GUPTA: Sir, how gererous the Minister is!

SHRI P. CHIDAMBARAM: And they will go before the Select Committee.

The second point is, of course, I heartily disagree with Mr. Gurudas Das Gupta's diagnosis of the economy and the solutions for the economy. Like he disagrees with me, I disagree with him, but we will stand together in supporting this Bill! Now what is his objection? His objection is that I should not show any mercy or generosity to the tax-evaders; I agree. But how did this culture of non-compliance come in this country? I will reply in greater length in the Lok Sabha when I will be called in the next few minutes, but I have to be very brief. This culture of non-compliance started when we imposed an income-tax of 97.75 per cent, and income-tax together with wealth-tax, came to 102 per cent! We made honest people dishonest. I am of the firm opinion that there is a point at which an honest man will become dishonest, will be tempted to become dishonest. There is also a point where a dishonest man, perhaps, could be motivated to become honest. It is a search for that point which has led successive Finance Ministers to reduce the tax rate, and I believe that we may not have found what is the right point, but I believe 30 per cent is the point at which it is possible for honest people to continue to remain honest and not to yield to temptation for becoming dishonest. It is also the point where, I

believe, a dishonest man can be asked to start with clean slate and become honest. Only time will say whether I am right, but I think I should be given a chance, at least, to try my philosophy. We have tried other philosophies. Give me a chance to try my philosophy. The generation of Dr. Ashok Mitra has had its say. Give my generation also a chance to try its philosophy. Today I am being criticised as unethical for announcing an amnesty scheme, and my friend, Mr. Singla, criticises me for being unethical for searches and seizures. How can I be unethical both ways? I could be unethical in one or the other manner. What we are doing here, I think, is a complement to the amnesty scheme.

I have not yet announced the Scheme. The Scheme has not been made public. We have only announced our intention to bring forward a scheme. I have announced the terminal date. I have not announced the starting date. I have not announced the details of the Scheme. There will be a scheme. That scheme will run for a limited period. Let me make it very clear that the Scheme, as far as I am concerned, will end on 31st December, 1997. During the period, when the Scheme runs, how the Income-Tax Department should conduct itself is a matter on which I am willing to take the advice of everybody. But once we do a search and seizure, I am very clear in my mind, we must make a distinction, as Mr. Kumar has mentioned, between a person who is willing to comply and a person who continues to be intransigent and says, "I will not comply". If a person is willing to comply, we will tax him at the rate of 60%. If a person is not willing to comply, then I think he should suffer not only tax at the rate of 60% but also he should suffer a penalty and he should also suffer an interest.

Sir, the National Illness Assistance, as I said, is an omission in the last Finance Bill. We are correcting that omission.

The last point is about shares. Mr. Gurudas Das Gupta, my dear friend, has no objection, if the net consideration in a transaction is invested in mutual funds, in bonds and in debentures. Those are also capital Market instruments. Bonds and debentures are fixed return instruments. A unit in a mutual fund is not a fixed return instrument. It has a variable return.

There is some element of speculation even in a unit in a mutual fund. He has no objection, if the net consideration is invested in bonds, debentures and in units of mutual funds. But he takes objection when I say, "You should also be allowed to invest in shares." Now shares are also capital market instruments. Without an active capital market there can be no liberal open economy. The most active capital market today, for the last 12 months, in the world is the market which is functioning in Moscow. A capital market is a vital part of the economy. It must be regulated. Therefore, we have SEBI. It must be better regulated. Therefore, we have regulations and laws. We have punished the erring people and action is being taken. Someone has mentioned that after this Government came into office it has taken action. I think it was mentioned in the other House. We have taken action. That is not to confuse the matter or that we can abolish capital market. If you abolish capital market, where will equity be raised? Today the lending institutions are flush with money. They are unable to lend because players are not able to raise money in the capital market. The revival of the capital market must remain high on the agenda of any Government and the revival of the capital market remains high, if not the highest, on the agenda of this Government. The steps we have taken are the steps which are being taken after careful deliberation. I am not saying that I understand the capital market very well. But I certainly don't think that my friend, Mr. Gurudas Das Gupta, also understands the capital market very well. Both of us understand if imperfectly. The market itself is an imperfect instrument.

But to the extent of my understanding I am taking steps in order to restore confidence in the capital market to provide liquidity to the capital market. I think the choice must be left to the investor. He must have a choice to decide whether he wants to invest in a bond or in a debenture or in a unit or in a share. Who is the Government to say, you shall invest here and you shall not invest there? Those days, I think, are gone. We must leave it to those who have the money to invest, wherever they want. I think investing in shares and allowing the net consideration to be invested there and allowing exemption on capital gains is a right move and we have responded to the demands of investors. I would request the hon. Members to kindly co-operate and pass this Bill. I am particularly grateful to Mr. Satish Agarwal for agreeing to withdraw his Statutory Resolution.

SHRI S.S. AHLUWALIA: Sir, I want to seek a clarification.

SHRI P. CHIDAMBARAM: One minute. I am assuring that. Sir, a point was made that we were not disclosing the figures about the raids. That is not correct. I have got the figures. We answered it to a question in the Parliament.

SHRI SURINDER KUMAR SINGLA: Sir,...

SHRI P. CHIDAMBARAM: Just one minute. I know what you are asking. Let me give these figures. I have figures about the number of warrants issued in each year and the amount of money seized in the searches and the average seizure per warrant. What we don't have is the result of the assessment in each search. But that will take time. That takes time because the assesssment has to be made. An appeal is filed. That takes time. When I do have figures, after a reasonable period, of the result and assessment made in searches, after the appeal is over, I would be quite happy to share that information.

SHRI SURINDER KUMAR SINGLA: I have asked for the figures for ten years. They could not settle a single case for the last ten years. What I am asking is the number of searches and the amount claimed. Claimed figure means what they have actually got.

SHRI P. CHIDAMBARAM: That I have.

SHRI SURINDER KUMAR SINGLA: My point is, you don't have the figure of even one case being settle in the last ten years. (*Interruptions*). Then only one could assess whether this policy has actually succeeded or failed.

SHRI P. CHIDAMBARAM: I am not saying that there would not be a single case which was settled. What I am saying is, I don't have figures for the last three years because assessments appeals are pending. If you want me to go back to ten years, I have no doubt that some cases would have been assessed. I am willing to give him that information.

SHRI GURUDAS DAS GUPTA: Will the hon. Minister enlighten us as to what is the yield per year as a result of search and seizure?

SHRI P. CHIDAMBARAM: I have the number of warrants the total amount seized in that year and dividing one by the other the yield per warrant is available. In 1993-94, it was Rs. 7.88 lakh per warrant. In 1994-95, it was Rs. 7.89 lakhs per warrant.

SHRI GURUDAS DAS GUPTA: It has increased.

SHRI P. CHIDAMBARAM: In 1995-96, it was Rs. 9.93 lakhs per warrant. From April to October, 1996, it was Rs. 9.95 lakhs per warrant. It means, the number of searches has come down from 5,000 to 4,800 and from 4,800 to 4,600. I had answered it. This is because the quality of the information and the quality of the searches are better now. I don't think we should increase the number of searches. We should have better intelligence and we should search only

those people from whom the yield will be high. What is the point of searching somebody and collecting just one hundred rupees?

SHRI S. S. AHLUWALIA: Sir, I want to seek one small clarification. At the outset, I would say that I am not in favour of tax-evaders. The question is not about tax-evaders. Sir, in the past also we have announced a lot of amnesty schemes. An amnesty scheme is a sort of commitment from the Government to the tax-payer or to the wealthy people whereby they can come out with voluntary disclosures so that they can convert their black money into white money. Some time back we announced an amnesty scheme for collecting foreign exchange. A lot of people brought money. Because of that we have increased our foreign exchange base. In the case of Harshad Mehta it was not difficult to prosecute him because there were 1001 other reasons to prosecute him in other cases. But we have opened the amnesty scheme case when he brought some money from outside. Similarly, there are 1001 cases or documents to prosecute Shrimati Jayalalitha. But we have opened that file also. What does it mean? By doing such things, by opening such files and by withdrawing our amnesty commitment, we are discouraging lakhs and lakhs of people. Suppose a person discloses has income of last ten years. Next year his genune income would be coming down. But the Income-tax Department would not accept it. They would say, "You are a wilful defaulter and you are a habitual tax-evader. You are not coming out with the truth." So they will punish him. My point is when the Government makes a commitment, the Government should stick to that, whatever may come. They can prosecute a person in any other case. I am not bothered about that. But once we have extended amnesty, we should not open that file. That is my point. What is his stand on that?

SHRI P. CHIDAMBARAM: I think there is a misapprehension in Mr. Ahluwalia's mind. I am glad he raised it. Let me clarify it. In Dr. Manmohan Singh's amnesty scheme, amnesty was granted to foreign remittances. There was another similar scheme operated through the National Housing Bank. But that was too small and it did not yield any results. We leave that out. If you kindly read Clause 3 of the Foreign Remittance Amnesty Scheme —— I am speaking from my memory —— amnesty was only in respect of the Income-tax Act, the Wealth-tax Act and FERA. There was no amensty in respect of money which may have been earned or garnered by violating the Prevention of Corruption Act, the Narcotic and Psychotropic Substances Act and some other Acts. The scheme itself categorically mentions that amnesty is only inrespect of certain Acts and there is no amnesty in respect of certain other Acts. I am not taking any names, I do not know of any individual cases, I do not as a matter of principal, look into individual files and that I do not believe is the function of the Finance Minister —— unless there is a question in Parliament. I do not know of any cases. Cases where apparent amnesty has been pierced, I have no doubt must be cases where there is an allegation of violation of Prevention of Corruption Act, or the Narcotics and Psychotropic Substances Act or similar Acts for which there is no amnesty. It also includes TADA. As regards the point made by Surinderji, it is a valid point. There is a lurking fear that if you disclose your undisclosed income to your income-tax officer this year, in his mind, he has got a black mark against you, then next year he will not treat your return of income as a true income. I am aware of that. I will take care of that when I announce the scheme. I have not yet announced the scheme. I have announced my intention to announce the scheme. Let the scheme come and I will take care of that point.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Hon. Member Shri Satish

Agarwal has already expressed his willingness to withdraw the Statutory Resolution. Has he the leave of the House to withdraw the Resolution?

The Statutory Resolution was, by leave, withdrawn.

THE VICE-CHAIRMAN (SHRI MD. SALIM): I shall now put the motion moved by Shri P. Chidambaram to vote.

The question is:

That the Bill further to amend the Income-tax Act, 1961, as passed by Lok Sabha, be taken into consideration.

The motion was adopted.

THE VICE-CHAIRMAN (SHRI MD. SALIM): We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 11 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI P. CHIDAMBARAM: Sir, I move:

That the Bill be returned.

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Are there clarifications on the statement made by the Minister?

SHRI GURUDAS DAS GUPTA: After disposing of the UP business, let us take this up.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Mr. Home Minister, do you have something to say? Do you want to move the Bill today? ...(*Interruptions*)...

SHRI S.S. AHLUWALIA: I am told that in UP they have already formed a Government...(*Interruptions*)...

THE VICE-CHAIRMAN (SHRI MD. SALIM): Not yet, we do not have any information.

SHRI P. CHIDAMBARAM: Mr. Vice-Chairman, Sir, there is also the UP Budget and this has to be discussed together. Of course, the Home Minister will be there. But I only want to point out that the UP Appropriation Bill has to be returned. Therefore, you will have to do it today.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Do you have to go to the Lok Sabha? The Home Minister is here. We have decided to take it up together.

SHRI P. CHIDAMBARAM: Sir, whenever you want me to come, I will come here. But I have to get the UP Appropriation Bill passed by 31st March. I must do it here. The Vote on Account Bill has to be passed here.

SHRI PRANAB MUKHERJEE (West Bengal): I think there is a rumour that in UP they have formed a Government. Therefore, let the Home Minister clarify the position. If the Government is not formed there, then we will have to transact the financial business. Government cannot be formed there simply because somebody is staking his claim and showing majority, unless the proclamation is revoked. Therefore, for the information of the House, the Home Minister should clarify the position authoritatively. As the state is under President's rule, I would request, let us take up budget as we have discussed it in the Business Advisory Committee meeting. We shall have to take it up and the Budget is to be passed today so that tomorrow is available to us to face any eventuality. All the requirements, President's recommendations, certification, all these things are to be completed.

SHRI P. CHIDAMBARAM: Sir, I think Pranabda is absolutely right. The Home Minister will make whatever statement he wishes to make. But I would urge that the Uttar Pradesh Appropriation (Vote on Account) Bill, 1997 and the Uttar Pradesh Appropriation Bill, 1997 should be returned to the other House. The other House has passed it. Let us pass it without discussion.

SHRI GURUDAS DAS GUPTA: Let us pass it without discussion because it is a constitutional requirement. Let us pass it without discussion.

SHRI SATISH AGARWAL: Mr. Vice Chairman, Sir, looking at the consensus amongst the whole House and looking to the problems that may arise out of the U.P. Budget, my party has no objection. The financial business should be disposed of as far as U.P. is concerned.

THE UTTAR PRADESH APPROPRIATION (VOTE ON ACCOUNT) BILL, 1997

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): Sir, I move:

That the Bill to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Uttar Pradesh for the services of a part of the financial year 1997-98, as passed by Lok Sabha, be taken into consideration.

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI MD. SALIM): We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 and 3 and the Schedule were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI P. CHIDAMBARAM: Sir, I move:

That the Bill be returned.

The question was put and the motion was adopted.

THE UTTAR PRADESH APPROPRIATION BILL, 1997.

THE MINISTER OF FINANCE (SHRI P. CHIDAMBARAM): Sir, I move:

That the Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Uttar Pradesh for the services of the financial year 1996-97, as passed by Lok Sabha, be taken into consideration.

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI MD. SALIM): We shall not take up clause-by-clause consideration of the Bill.

Clauses 2 and 3 and the Schedule were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI P. CHIDAMBARAM: Sir, I move:

That the Bill be returned.

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI MD. SALIM): Now, we will take up clarifications on the statement made by the Minister regarding...*(Interruptions)*...

SHRI S.S. AHLUWALIA (Bihar): What about Uttar Pradesh? ...*(Interruptions)*...

THE VICE-CHAIRMAN (SHRI MD. SALIM: I will go by the Order Paper. In the Order Paper as well as in the BAC, it was decided that we will take up both the Resolution and the Appropriation Bill together. Then, Mr. Chidambaram said that the Appropriation Bill has to be passed. Therefore, we took it up after taking the sense of the House. If the Home Minister wants to say something, that is another thing, but I cannot direct him to say something. At this moment, I don't think it is appropriate to ask the Home Minister to make any statement on this.